

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
BANKRUPTCY DIVISION
DIVISION OF ST. THOMAS AND ST. JOHN**

IN RE:) Bankruptcy No. 305-00001
) Chapter 7
Pamela Taylor,) Judge Fitzgerald
)
Debtor.)

ORDER DISALLOWING IN PART DEBTOR'S CLAIM OF EXEMPTIONS

The above-styled matter came on for disposition after notice of the Trustee's Objection to Debtor's Claim of Exemptions (Docket No. 8), motion and response.

Upon review of the file and consideration of the briefs of counsel, the Objection to Exemptions is hereby **GRANTED IN PART** only as to the 1997 Suzuki X-90 vehicle. The vehicle is neither a household good, furniture or utensil within the meaning of 5 VIC §479(3), nor is it a tool of the trade within the meaning of 5 VIC §479(2).

A "tool" is defined in *Webster's Third New International Dictionary of the English Language*, Unabridged (1986), as "an instrument (as a hammer or saw) used or worked by hand; an instrument used by a handicraftsman or laborer in his work." A vehicle which is not itself used as the "tool" (such as a vehicle used as a taxi or tow truck) is not a "tool of the trade." There is no exemption in the VI Code for vehicles. Debtor has claimed Virgin Islands exemptions and not federal exemptions. Thus, the claim of exemption in the 1997 Suzuki X-90 is disallowed.

The court notes that Debtor has made other claims of exemption which are not within the VI exemptions – for example, CDs and DVDs worth \$150 that are claimed exempt under "common law of tenants by the entirety" and "audio and video equipment worth \$300" claimed

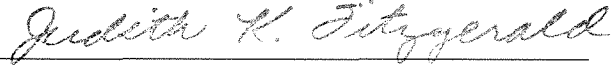
as exempt on the same basis. There is no such exemption and in the future, Trustee should object to such improper claims. However, no one objected to those exemptions in this case, and the time to do so has expired. Thus, those exemptions, although improperly claimed, must be allowed. The court further notes that household furnishings were properly claimed as exempt under 5 VIC §479(a)(3) but the added claim under “common law of tenants by the entirety” is likewise improper, there existing no such exemption under the VI Code. The entirety exemption is limited to real estate.

IT IS ORDERED that the Debtor’s Claim of Exemption on Schedule C of her Schedules in said vehicle is hereby **DISALLOWED**.

Trustee misperceives the nature of the entirety exemption under 5 VIC §478(a). That section provides a homestead exemption, in relevant part, of up to \$30,000 in value of the entirety real property from being subject to certain real estate taxes. Nothing in that section displaces the entirety exemption as it protects real property from execution by the creditors of only one spouse while both spouses who comprise the entirety unit are alive. Moreover, the entirety exemption is not limited to ONE parcel of real estate. See 28 VIC §7(c), (d); Masonry Products, Inc. v. Tees, 280 F.Supp. 654 (D.C.V.I. 1968); Modeste v. Benjamin, 18 V.I. 619 (D.C.V.I. 1981). All parcels held by the entirety are protected from levy and execution by the creditors of only one spouse.

THUS, IT IS FURTHER ORDERED that the objection to the claim of exemption in the real estate held by tenants by the entirety is overruled, and the exemption is **ALLOWED**.

SO ORDERED this 7th day of April, 2005.



Judith K. Fitzgerald
U.S. Bankruptcy Judge

The Clerk of the Court shall serve a copy of this Order on Debtor, the United States Trustee and all creditors and parties in interest.